IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.13 OF 2006

The State of Maharashtra. ..Applicant.
Vs.
Dattatraya K. Ghule. ..Respondent.

Mr.P.D.Gharat,Special P.P. for CBI.
Mr.S.R.Shitole, APP. for the Respondent No.1.
Mr.S.V.Kotwal for the Respondent No.2.

CORAM : R.S. MOHITE,J.
DATED : 04/5/2006.

P.C.

1. This is an application filed by the State impugning an order dated 1.12.2005 passed by the Special Judge, Pune in Special Case No.7/2005.

2. By the impugned judgment and order, the summons have been issued to the various authorities to produce the documents as mentioned in the operative portion of the order. The summons has been issued to the Dean/Registrar/Medical Officer of T.N. Medical College and B.Y.L. Nair Charitable Hospital, Mumbai directing him to produce all the case papers of patient Anil Uttam Kadam. The summons has been issued to Registrar/Medical Officer of Bhagwati Hospital, Sardar Vallabhai Patel Road, Borivali (West) directing him to produce case papers of patient Anil Uttam Kadam for the month of August,2004 and the summons has been issued to the

Investigating Officer, CBI, directing him to produce the papers of investigation made by CBI/SIT, Thane and statement recorded by Police Inspector Shri. Ajit Deshpande. Finally summons has been issued to Police Inspector of Worli Police Station and Borivali Police Station directing them to produce a copy of the complaint filed by Anil Kadam in the month of August,2004, It appears from the record that these summons were issued on an application at Exh.28 filed on behalf of the accused under Section 91 of the Cr.P.C. It appears that the application was made at the stage when the bail application was pending and in the application an averment was made that the said documents are required for the purpose of bail. However, before Exh.28 could be decided bail application was rejected. Therefore, when Exh.28 was heard, submission was made that the documents were required for the purpose of discharge application. Submission was also made that the documents are required at the stage of trial. This is also in accordance with the further submission made on behalf of the accused that the documents in any case would be required for the purpose of trial. Section 91 is couched in wide wording. The Court has power to summon documents at the stage of investigation, enquiry, trial or any other proceeding contemplated under the Cr.P.C. It appears that in this case the documents were initially sought to be summoned because the bail

application was pending. But since the same came to be disposed of, stand was changed and the accused contended that the documents were required for the purpose of applying for discharge. It is noticed that the order was passed merely for production of documents. There is no order directing that the copies of these documents or inspection to be given to the accused. The present order as it stands cannot be faulted. However, it is made clear that if accused wants to inspect or obtain copies of the documents, he will have to make an application to the court during the pendency of any application contemplated by the court. If such an application is made, the same will be considered on its own merits. The Advocate for the applicant states that these documents were required to be given because there was reference to these documents in the charge sheet and these documents were actually taken into custody during the ongoing investigation. The Special P.P. disputes this aspect of the matter and contents that merely because the documents were taken into custody , the copies thereof are not required to be given under Section 207 and these documents are therefore, not forming part of the charge-sheet. This aspect of the matter an be considered by the trial court if and when application is made by the accused after hearing both the parties. The revision application is accordingly disposed off.

(R. S. MOHITE, J.)